

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

YNOCENCIO GONZÁLEZ-CASTILLO

Defendant

CRIMINAL 06-366CCC

**ORDER**

Before the Court is the Motion Objecting to Pre-Sentence Investigation Report filed by defendant Inocencio González-Castillo on April 25, 2007 (docket entry 25), where he raises two objections to his PSR. He claims to qualify for the additional one-point reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(b), which was not awarded in the PSR. He also contends that the two criminal history points applied for his being on probation when he committed the instant offense were unwarranted since he avers that by the date of the offense said term of probation had already expired.

As to the first objection, defendant is reminded that the additional one-point reduction under U.S.S.G. § 3E1.1(b) requires for its application a “motion of the government stating that the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently...” U.S.S.G. § 3E1.1(b). Said motion has not being filed here. While all the indicators are that he should be granted the additional point, we must observe the plain language of the Guidelines and await for the government’s statement. Thus, this objection is **OVERRULED** at this time.

With regard to the objection to the application of two criminal history points for committing the offense while on probation, defendant implicitly admits in the Motion that the offense would have been committed while on probation if said probation term had been tolled

by the Court. See ¶ 5. That is precisely what happened here. As indicated by the U.S. Probation Officer in her Addendum to the PSR, on January 8, 2004 the running of the probated sentence was suspended or tolled effective December 11, 2003 by the Gwinnett Superior Court in Georgia.<sup>1</sup> Thus, defendant was still on probation when he committed the instant offense on November 13, 2006, and the two disputed criminal history points are clearly applicable under U.S.S.G. § 4A1.1(d). Defendant's objection is, thus, **OVERRULED**.

**SO ORDERED.**

At San Juan, Puerto Rico, on May 16, 2007.

S/CARMEN CONSUELO CEREZO  
United States District Judge

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<sup>1</sup> Copy of said Order is in possession of the U.S. Probation Office, and was reviewed by the Court.